

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

SONY BMG CD  
TECHNOLOGIES LITIGATION

CASE NO: 1:05-cv-09575-NRB

DECLARATION OF PHILIP A. TORTORETI IN SUPPORT OF PLAINTIFFS' CLASS  
COUNSELS' APPLICATION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF  
EXPENSES

I, PHILIP A. TORTORETI, hereby declare as follows:

1. I am an attorney in good standing duly licensed and admitted to practice in the State of New Jersey and the United States Virgin Islands (currently inactive in the USVI). I am a partner of Tortoreti, Tones & Callahan, P.C., counsel of record for Plaintiff DeMarco in *DeMarco v. Sony BMG*, Docket No. 1:05-10825. A true and correct copy of the firm resume is attached hereto as Exhibit A and incorporated by reference herein.
2. I submit this declaration in support of Plaintiffs' Class Counsels' application for attorneys' fees and reimbursements of expenses in the above entitled matter. The testimony set forth in this declaration is based on first hand knowledge, about which I would and could testify competently in open court if called upon to do so, and on contemporaneously generated records kept in the ordinary course of business.

3. The total number of professional hours expended in the litigation by Tortoreti, Tomes & Callahan, P.C. is 23.6. The total lodestar amount for attorney's time expended by Tortoreti, Tomes & Callahan, P.C. in the course of the litigation, based upon current rates, is \$9,746.00. The chart attached hereto as Exhibit B was prepared by me and presents a summary of the time spent from November 14, 2005 through March 16, 2006 on the litigation by attorneys. The chart includes the name of each attorney who has worked on the case, his or her current hourly billing rate and the number of hours expended by each professional on the matter. The time reflected in this declaration was time actually spent, in the exercise of reasonable judgment, by the laws and staff involved, and includes, but is not limited to: communications by and between counsel and plaintiff; communications amongst co-counsel; drafting correspondence, emails, pleadings; review and responses to co-counsel's work, proposed settlements; conferences with co-counsel; and legal research. My firm was careful not to expend unnecessary hours and did not do duplicate work done by others.

I hereby declare that the foregoing statements made by me are true to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: March 24, 2006



Philip A. Tortoreti

## **Exhibit A**

**TORTORETI, TOMES & CALLAHAN, P.C.**

***Firm Resume***

The Law Firm of Tortoreti, Tomes & Callahan represents clients in a wide range of litigation with an emphasis on class actions and personal injuries. A majority of the Firm's cases involve Consumer Class Actions, Medical Malpractice, Toxic Torts (including asbestos litigation), Product Liability (including pharmaceutical products), Workers' Compensation and Automobile Negligence. The Firm maintains its' offices in East Brunswick, New Jersey.

Tortoreti, Tomes & Callahan draws upon the experience of its' qualified attorneys that have litigated some of the largest Consumer Product Class Actions and Personal Injury cases in the history of New Jersey and the United States. The Firm also has had a substantial influence on shaping Discovery and Statute of Limitations issues to extend rights of injured claimants. The office has argued landmark decisions in the Supreme Court of New Jersey including Savage v. Old Bridge-Sayreville Medical Group, 134 N.J. 241 (1993) and Graves v. Church & Dwight, 134 N.J. 566 (1993), as well as holding pharmaceutical manufacturers accountable for direct advertising to consumers. Perez v. Wyeth Laboratories, Inc., 161 N.J. 1 (1999).

The firm has been appointed Lead Counsel or Class Counsel for Plaintiffs in several significant consumer product class actions, including: Extensis Inc. v. Hewlett-Packard Company, Docket No. MID-L-6843-01 and Scott Baird, et al v. Thompson Consumer Electronics, Inc., Case No. 00-L-00761 (111 Cir.Ct., Madison County); which resulted in court approved settlements valued at over \$100 million.

**PHILIP A. TORTORETI**

Philip A. Tortoreti, a partner of the Firm, is a member of the Bars in New Jersey and the U.S. Virgin Islands and of the Federal Bar Of Puerto Rico. He has been practicing law for over twenty-five years. He was the Managing Editor of the Rutgers-Camden Law Journal and previously worked at Wilentz, Goldman & Spitzer, one of the largest Law Firms in New Jersey; at Asch, Suss & Tortoreti; and at Garruto, Galex & Cantor. He concentrates his practice in the areas of Consumer Product Class Actions, Asbestos and Toxic Exposure litigation, Medical Malpractice and Product Liability cases and he has traveled on behalf of clients to the Caribbean, Europe and Asia.

Mr. Tortoreti was one of the lead counsel for a nationwide consumer product class action nationwide, Extensis Inc. v. Hewlett-Packard Company, that resulted in a court approved settlement with a potential value of over \$100,000,000.00 in rebate certificates and repair kits for purchasers of certain Hewlett-Packard LaserJet printers. He is also lead counsel in pending class actions of Pisano v. Peg Perego pending in Superior Court of New Jersey, Middlesex County and in

**FRANCES A. TOMES**

Frances a. Tomes, a Partner of the Firm, is a member of the Bar in New Jersey and New York. She has been practicing law for sixteen years. She previously worked at Garruto, Galex & Cantor and Subin Associates in New York City. She is a graduate of Pace University School of Business Administration, where she graduated with honors cum laude. She is a member of the Board of Governors of Association of Trial Lawyers of America - New Jersey (ATLA-NJ) and a member of the American Bar Association, New Jersey State Bar Association, and Trial Attorneys of

New Jersey. She was one of three Trial Attorneys representing Plaintiffs in the first multi-plaintiff trials in Asbestos Litigation in New Jersey, resulting in a combined verdict of over \$2,000,000.00. She has also handled numerous other multi-plaintiff litigations and has settled several cases for over \$1,000,000.00.

Ms. Tomes was one of the lead counsel for a nationwide consumer product class action, Extensis Inc. v. Hewlett-Packard Company, that resulted in a court approved settlement with a potential value of over \$100,000,000.00 in rebate certificates and repair kits for purchasers of certain Hewlett-Packard LaserJet printers.

## **Exhibit B**



3/21/2006  
10:36 AMTotoretii, Tones & Callahan  
Slip Listing

Page 1

## Selection Criteria

Slip Classification Open  
Client (hand select) Include: SONY BMG

Rate Info - identifies rate source and level

Slip ID	Dates and Time	Timekeeper Activity	Units DNB Time	Rate Rate Info	Slip Value
Posting Status		Client	Est. Time	Bill Status	
Description		Phase/Task	Variance		
2405	TIME	PAT-6-3-05	3.50	415.00	1452.50
11/14/2005		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Conference with co-counsel.			0.00		
2467	TIME	SPC	0.30	350.00	105.00
11/14/2005		Meeting w/co-c	0.00	T@1	
WIP		SONY BMG	0.00		
Conference with FAT & PAT re: Potential Case.			0.00		
2400	TIME	PAT-6-3-05	0.30	415.00	124.50
11/14/2005		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with Halbfish re: potential case.			0.00		
2465	TIME	PAT-6-3-05	0.30	415.00	124.50
11/14/2005		Meeting w/co-c	0.00	T@1	
WIP		SONY BMG	0.00		
Conference FAT & SPC re: potential case			0.00		
2466	TIME	FAT	0.30	400.00	120.00
11/14/2005		Meeting w/co-c	0.00	T@1	
WIP		SONY BMG	0.00		
Conference with PAT & SPC Re: potential case.			0.00		
2404	TIME	PAT-6-3-05	1.00	415.00	415.00
11/14/2005		Travel Time	0.00	T@1	
WIP		SONY BMG	0.00		
Travel to and from conference with Halbfish, Raff & Raff & Kizis.			0.00		
2401	TIME	PAT-6-3-05	0.30	415.00	124.50
11/14/2005		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference x 2 with Halbfish re: case			0.00		
2402	TIME	PAT-6-3-05	0.80	415.00	332.00
11/14/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Review emails and research.			0.00		



3/21/2006  
10:36 AMTotoreti, Tomes & Callahan  
Slip Listing

Page 2

Slip ID	Dates and Time	Timekeeper	Units	Rate	Slip Value
Posting Status	Activity	DNB Time	Rate Info		
Description	Client	Est. Time	Bill Status		
	Phase/Task	Variance			
2403	TIME	PAT-6-3-05	0.20	415.00	83.00
11/14/2005	Phone cocouns	0.00	T@1		
WIP	SONY BMG	0.00			
Telephone conference with Lynne Kizis		0.00			
2409	TIME	PAT-6-3-05	0.40	415.00	166.00
11/16/2005	Review/analyze	0.00	T@1		
WIP	SONY BMG	0.00			
Review Halbfish emails-research.		0.00			
2410	TIME	PAT-6-3-05	0.20	415.00	83.00
11/16/2005	Phone cocouns	0.00	T@1		
WIP	SONY BMG	0.00			
Telephone conference with Samelli.		0.00			
2412	TIME	PAT-6-3-05	0.20	415.00	83.00
11/16/2005	Phone cocouns	0.00	T@1		
WIP	SONY BMG	0.00			
Telephone Conference with Steve Raff.		0.00			
2413	TIME	PAT-6-3-05	0.20	415.00	83.00
11/16/2005	Phone cocouns	0.00	T@1		
WIP	SONY BMG	0.00			
Telephone conference with Steve Raff & Halbfish.		0.00			
2414	TIME	PAT-6-3-05	0.20	415.00	83.00
11/16/2005	Phone cocouns	0.00	T@1		
WIP	SONY BMG	0.00			
Telephone conference with Samelli		0.00			
2415	TIME	PAT-6-3-05	1.50	415.00	622.50
11/16/2005	Research	0.00	T@1		
WIP	SONY BMG	0.00			
Research/edit draft of complaint with Halbfish.		0.00			
2420	TIME	PAT-6-3-05	1.50	415.00	622.50
11/17/2005	Review/analyze	0.00	T@1		
WIP	SONY BMG	0.00			
Review/revise complaint.		0.00			
2419	TIME	PAT-6-3-05	0.50	415.00	207.50
11/17/2005	Phone cocouns	0.00	T@1		
WIP	SONY BMG	0.00			
Telephone conference with co-counsel.		0.00			
2418	TIME	PAT-6-3-05	0.50	415.00	207.50
11/17/2005	Emails	0.00	T@1		
WIP	SONY BMG	0.00			
Miscellaneous emails re: complaint.		0.00			

3/21/2006  
10:36 AMTotoret, Tones & Callahan  
Slip Listing

Page 3

Slip ID	Dates and Time	Timekeeper	Units	Rate	Slip Value
Posting Status		Activity	DNB Time	Rate Info	
Description		Client	Est. Time	Bill Status	
		Phase/Task	Variance		
2421	TIME	PAT-6-3-05	0.50	415.00	207.50
11/18/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Emails re: status and further investigation.			0.00		
2448	TIME	FAT	0.80	400.00	320.00
12/2/2005		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with co-counsel.			0.00		
2447	TIME	PAT-6-3-05	0.80	415.00	332.00
12/2/2005		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with co-counsel.			0.00		
2449	TIME	PAT-6-3-05	0.60	415.00	249.00
12/5/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Email exchanges Re: NY & NJ			0.00		
2450	TIME	PAT-6-3-05	0.50	415.00	207.50
12/9/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Miscellaneous emails re: NY Litigation.			0.00		
2451	TIME	PAT-6-3-05	0.30	415.00	124.50
12/9/2005		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Phone conference with Scott Kamber.			0.00		
2452	TIME	PAT-6-3-05	0.20	415.00	83.00
12/9/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Email to Lynne M. Kizis and Jennifer Sarnelli re: Telephone conference with Kamber			0.00		
2453	TIME	PAT-6-3-05	0.40	415.00	166.00
12/10/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Review emails among co-counsel re: Travel to NY			0.00		
2454	TIME	PAT-6-3-05	0.20	415.00	83.00
12/11/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Rview emails among co-counsel re: transfer to NY.			0.00		
2455	TIME	PAT-6-3-05	0.40	415.00	166.00
12/11/2005		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Conference with co-counsel re: Transfer to NY.			0.00		

3/21/2006  
10:36 AMTotoreti, Tones & Callahan  
Slip Listing

Page 4

Slip ID	Dates and Time	Timekeeper	Units	Rate	Slip Value
Posting Status		Activity	DNB Time	Rate Info	
Description		Client	Est. Time	Bill Status	
		Phase/Task	Variance		
2456	TIME	PAT-6-3-05	0.20	415.00	83.00
12/12/2005		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with Kamber re: Transfer to NY.			0.00		
2457	TIME	PAT-6-3-05	0.20	415.00	83.00
12/15/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Email exchange with Steve Raff.			0.00		
2458	TIME	PAT-6-3-05	0.10	415.00	41.50
12/15/2005		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone call to Marisa Grames (L/M).			0.00		
2460	TIME	PAT-6-3-05	0.20	415.00	83.00
12/16/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Email to co-counsel re: Telephone conference with Grimes.			0.00		
2459	TIME	PAT-6-3-05	0.20	415.00	83.00
12/16/2005		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with Marisa Grimes			0.00		
2462	TIME	PAT-6-3-05	0.10	415.00	41.50
12/19/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Email re: Settlement			0.00		
2463	TIME	PAT-6-3-05	0.20	415.00	83.00
12/19/2005		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with Jennifer Samelli re: settlement.			0.00		
2464	TIME	PAT-6-3-05	0.40	415.00	166.00
12/19/2005		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Print & audit Lodestar.			0.00		
2461	TIME	PAT-6-3-05	0.30	415.00	124.50
12/19/2005		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Email exchanges re: Transfer.			0.00		
2505	TIME	PAT-6-3-05	0.20	415.00	83.00
1/6/2006		Emails	0.00	T@1	
WIP		SONY BMG	0.00		
Emails re: settlement.			0.00		

3/21/2006  
10:36 AMTotoret, Tones & Callahan  
Slip Listing

Page 5

Slip ID	Dates and Time Posting Status Description	Timekeeper Activity Client Phase/Task	Units DNB Time Est. Time Variance	Rate Rate Info Bill Status	Slip Value
2506	TIME 1/9/2006 WIP Emails re: settlement.	PAT-6-3-05 Emails SONY BMG	0.30 0.00 0.00 0.00	415.00 T@1	124.50
2507	TIME 1/17/2006 WIP Review DeMarco Response to Consol.	PAT-6-3-05 Review/analyze SONY BMG	0.30 0.00 0.00 0.00	415.00 T@1	124.50
2503	TIME 2/2/2006 WIP Review Ricciati Group objection to Modification of Agreement.	PAT-6-3-05 Review/analyze SONY BMG	0.40 0.00 0.00 0.00	415.00 T@1	166.00
2504	TIME 2/3/2006 WIP Email to Samelli re: Ricciatti Objection.	PAT-6-3-05 Emails SONY BMG	0.20 0.00 0.00 0.00	415.00 T@1	83.00
2510	TIME 2/3/2006 WIP Email to co-counsel re: Ricciatti Objection.	PAT-6-3-05 Emails SONY BMG	0.20 0.00 0.00 0.00	415.00 T@1	83.00
2515	TIME 2/7/2006 WIP Emails with co-counsel Re: Ricciati Objection.	PAT-6-3-05 Emails SONY BMG	0.30 0.00 0.00 0.00	415.00 T@1	124.50
2516	TIME 2/7/2006 WIP Email exchange with Scott Kamber	PAT-6-3-05 Emails SONY BMG	0.30 0.00 0.00 0.00	415.00 T@1	124.50
2534	TIME 2/17/2006 WIP Review Notice of Settlement.	PAT-6-3-05 Review/analyze SONY BMG	0.40 0.00 0.00 0.00	415.00 T@1	166.00
2535	TIME 2/17/2006 WIP Emails among co-counsel Re: Notice of Settlement.	PAT-6-3-05 Emails SONY BMG	0.20 0.00 0.00 0.00	415.00 T@1	83.00
2548	TIME 2/27/2006 WIP Conference with co-counsel.	PAT-6-3-05 Other activity SONY BMG	0.30 0.00 0.00 0.00	415.00 T@1	124.50

3/21/2006  
10:36 AMTotoreti, Tones & Callahan  
Slip Listing

Page 6

Slip ID	Dates and Time	Timekeeper	Units	Rate	Slip Value
Posting Status		Activity	DNB Time	Rate Info	
Description		Client	Est. Time	Bill Status	
		Phase/Task	Variance		
2551	TIME	FAT	0.30	400.00	120.00
2/27/2006		Other activity	0.00	T@1	
WIP		SONY BMG	0.00		
Conference with co-counsel.			0.00		
2585	TIME	PAT-6-3-05	0.20	415.00	83.00
3/8/2006		Review/analyze	0.00	T@1	
WIP		SONY BMG	0.00		
Review fax re: Freedman Notice of Presentation.			0.00		
2586	TIME	PAT-6-3-05	0.20	415.00	83.00
3/8/2006		faxing	0.00	T@1	
WIP		SONY BMG	0.00		
Fax to Samelli re: Freedman Notice of Presentation.			0.00		
2594	TIME	PAT-6-3-05	0.50	415.00	207.50
3/16/2006		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with co-counsel.			0.00		
2595	TIME	FAT	0.50	400.00	200.00
3/16/2006		Phone cocouns	0.00	T@1	
WIP		SONY BMG	0.00		
Telephone conference with co-counsel.			0.00		
Grand Total					
		Billable	23.60		9746.00
		Unbillable	0.00		0.00
		Total	23.60		9746.00